

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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|---|---|-----------------------------|
| JOHN M. NOLAN, JR., | : | CIVIL ACTION |
| | : | |
| Plaintiff | : | |
| | : | |
| v. | : | |
| | : | |
| READING BLUE MOUNTAIN & NORTHERN RAILROAD COMPANY, | : | |
| | : | |
| Defendant. | : | NO. 02-CV-2805 (PBT) |

PLAINTIFF'S SUMMARY OF CONTENTIONS

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Attorneys for Plaintiff John M. Nolan, Jr.

PLAINTIFF'S SUMMARY OF CONTENTIONS

On August 2, 2000, Defendant Reading Blue Mountain & Northern Railroad Company's General Manager Tyler Glass, age 28, discharged Plaintiff John M. Nolan, Jr., a 62 year old Reading Division Engineer, because of his age. Previously in February of 1999, Plaintiff was assigned to work at Pittston in the Lehigh Division for 2 straight days. Pittston is 134 driving miles from Plaintiff's West Chester home, and it took him 2 hours and 45 minutes to commute there 1 way, for a total daily commute of about 5 hours and 30 minutes, in addition to his 12 hour shift on the train, or a 17 hour and 30 minute work day. After working the first day, Plaintiff informed Chief Dispatcher Wayne Weikel the long commute combined with the 12 hour shift was too physically draining for him to work safely. In response, Defendant banned him from all Lehigh Division jobs, and he never worked an engineer job in that Division from February 11, 1999 to August 2, 2000.

After Glass re-assigned him to Pittston, Plaintiff, on August 1, 2000, reminded Dispatcher Daren Geschwindt that the commute plus the 12 hour shift was too physically draining to allow him to work safely. So on August 2, 2000, Glass discharged Plaintiff because of his age. Defendant replaced Plaintiff with 32 year old trainee Jack Barnett. When fired, Plaintiff was the Railroad's oldest engineer and oldest employee in the railroad operating department, and there was no extra work in Pittston requiring Plaintiff to be there.

Five younger Reading Division engineers never worked at Pittston in the Lehigh Division. Lehigh Division engineers Mike Bischak and Chad Frederickson were regularly assigned to work at Pittston and not the Reading Division. No younger engineer commuted farther than 1 hour and 50 minutes or was expected to work and commute more than 16 hours. Defendant allowed younger engineers, who complained about or refused to make long commutes from home, shorter commutes and did not require them to make longer commutes to keep their jobs. Similarly situated younger employees also were treated better with higher conductor pay and faster engineer training and pay increases.

As a result of his discharge, Plaintiff has suffered lost wages, lost railroad retirement benefits, lost interest, lost vacation time, and incidental damages for expenses incurred in seeking alternative employment.

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